

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7025

BILL NUMBER: HB 1291

NOTE PREPARED: Jan 8, 2014

BILL AMENDED:

SUBJECT: Adult-Oriented Businesses.

FIRST AUTHOR: Rep. Hale

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: The bill defines "adult-oriented business".

Prohibitions & Penalties- The bill prohibits employment of a person less than 21 years of age on the premises of an adult-oriented business. It provides that the operator of an adult-oriented business commits a Class B infraction if an employee is intoxicated or under the influence of a controlled substance while on the premises of the adult-oriented business.

Indecent Nuisance & Abatement- The bill also specifies that an adult-oriented business that repeatedly violates certain requirements is an indecent nuisance and is subject to abatement in the same manner as other indecent nuisances.

Increases Penalty- The bill increases the penalty for patronizing a prostitute to a Level 6 felony if the offense is committed on the premises of an adult-oriented business.

Effective Date: July 1, 2014.

Explanation of State Expenditures: *Penalty Provision:* The bill adds one Level 6 felony and increases a Class A misdemeanor to a Level 6 felony. A Level 6 felony is punishable by a prison term ranging from 6 months to 30 months or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$19,386 in FY 2013. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,266 annually, or \$8.95 daily, per prisoner.

Explanation of State Revenues: *Indecent Nuisance & Abatement*- More abatement procedures could require the increased use of state Attorney General prosecutorial officials. The Attorney General's Office could receive all reasonable attorneys' fees for conducting the abatement prosecution of a sexually oriented business. The state General Fund would receive the compensation of attorneys' fees. The state General Fund would also receive a share of court fees when actions are filed.

Penalty Provision: The bill adds several infractions and Level 6 felonies. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. Criminal fines are deposited in the Common School Fund. The following table shows the maximum fines for the following penalties.

Criminal Penalty Maximum Fines		
Penalty	Maximum Fine	Deposited Fund
Level 6 Felony	\$10,000	Common School
Class A Infraction	\$10,000	General
Class B Infraction	\$1,000	General

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee (\$70 for infractions) that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the automated record keeping fee (\$7), judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$2) are deposited into the state General Fund.

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee (\$70 for infractions) that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. Persons found guilty of a felony or misdemeanor are also required to pay the document storage fee (\$2), which is deposited into the clerk record perpetuation fund, and the jury fee (\$2) and the law enforcement continuing education fee (\$4), which are both deposited in the county user fee fund.

State Agencies Affected: Department of Correction; Attorney General.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

Fiscal Analyst: Chris Baker, 317-232-9851.